

The stipulations as specifically set forth in the Award of the Administrative Law Judge are herein adopted by the Appeals Board.

ISSUES

- (1) Whether claimant suffered accidental injury arising out of and in the course of her employment with respondent on the dates alleged.
- (2) What, if any, is the nature and extent of claimant's injury and/or disability?

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Having reviewed the whole evidentiary record filed herein, and in addition the stipulations of the parties, the Appeals Board makes the following findings of fact and conclusions of law:

The Appeals Board finds that the Award of the Administrative Law Judge sets out the findings of fact and conclusions of law in some detail and it is not necessary to repeat those findings or conclusions herein. The findings and conclusions enumerated in the Award of the Administrative Law Judge are accurate and appropriate and the Appeals Board adopts same as its own findings and conclusions as though specifically set forth herein as to the issues raised.

The Appeals Board finds the evidence supports the Administrative Law Judge's finding that claimant suffered a temporary exacerbation of an underlying condition with no permanency resulting therein. The medical reports of Dr. Philip R. Mills are persuasive in that regard. Claimant was off work for the period of July 5, 1994 through September 28, 1994 and is entitled to temporary total disability benefits for those weeks.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that claimant, Judy K. Swaim, is granted an award against the respondent, Rubbermaid, and its insurance carrier, Kemper Insurance Company, for an accidental injury sustained during the period June 16, 1994 and June 30, 1994, resulting in a temporary exacerbation of a pre-existing condition.

Claimant is entitled to 12.29 weeks temporary total disability compensation at the rate of \$288.81 per week, totalling \$3,549.47. As of the date of this Award, the entire sum is due and owing in one lump sum minus any amounts previously paid.

Fees necessary to defray the expense of the administration of the Workers Compensation Act are hereby assessed against the respondent and its insurance carrier as follows:

Ireland Court Reporting	
Transcript of Regular Hearing	\$287.40
Deposition of Jerry D. Hardin	\$175.20
Deposition of Ernest R. Schlachter, M.D.	\$157.40
Barber & Associates	
Deposition of Karen Terrill	\$210.80
Deposition of Philip R. Mills, M.D.	\$198.60

Deposition of Rebecca Majher

\$240.70

IT IS SO ORDERED.

Dated this ____ day of November 1995.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: James B. Zongker, Wichita, Kansas
David S. Wooding, Wichita, Kansas
Steven Marsh, Wichita, Kansas
John D. Clark, Administrative Law Judge
Philip S. Harness, Director